

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EDGAR ZAVALA,) CASE NO. SA CV 12-1002-DSF (PJW)
Petitioner,)
v.) ORDER TO SHOW CAUSE WHY PETITION
RALPH DIAZ, WARDEN,) SHOULD NOT BE DISMISSED
Respondent.)

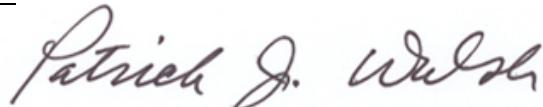
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On June 14, 2012, Petitioner constructively filed a Petition for Writ of Habeas Corpus, seeking to challenge his December 2004 state convictions for lewd and lascivious acts on a minor. (Petition at 2; *People v. Zavala*, 2006 WL 650048 (Cal. App. Mar. 15, 2006).) In the Petition, he claims that the complaining witness's refusal to answer questions violated his Sixth Amendment right to confrontation, trial counsel provided ineffective assistance by failing to object to the introduction of the witness's prior testimony, and appellate counsel provided ineffective assistance by failing to raise the confrontation clause claim on appeal. (Petition at 5-6.) For the following reasons, Petitioner is ordered to show cause why his Petition should not be dismissed because it is time-barred.

1 State prisoners seeking to challenge their state convictions in
2 federal habeas corpus proceedings are subject to a one-year statute of
3 limitations. 28 U.S.C. § 2244(d). Petitioner did not seek review of
4 the California Court of Appeal's decision affirming his conviction.
5 Thus, his conviction became final on April 24, 2006--40 days after
6 that decision. See *Waldrip v. Hall*, 548 F.3d 729, 735 (9th Cir.
7 2008). Therefore, the statute of limitations expired one year later,
8 on April 24, 2007. See *Patterson v. Stewart*, 251 F.3d 1243, 1246 (9th
9 Cir. 2001). Petitioner, however, did not file this Petition until
10 June 14, 2012, more than five years after the deadline.

11 IT IS THEREFORE ORDERED that, no later than **July 25, 2012**,
12 Petitioner shall inform the Court in writing why this case should not
13 be dismissed with prejudice because it is barred by the statute of
14 limitations. Failure to timely file a response will result in a
15 recommendation that this case be dismissed.

16 DATED: June 25, 2012

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20 PATRICK J. WALSH
21 UNITED STATES MAGISTRATE JUDGE
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